

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 512

By: Shortey

4
5
6 AS INTRODUCED

7 An Act relating to criminal penalties; amending
8 Sections 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16,
9 17, 18, 19 and 20, State Question No. 780, Initiative
10 Petition No. 404, adopted November 8, 2016, which
11 relate to prohibited acts and penalties, grand
12 larceny, receiving stolen property, larceny of
13 certain fish and game, taking oil or gasoline,
14 larceny of merchandise, embezzlement defined, value
15 of less than One Thousand Dollars, motor vehicle
16 lease or rental, value of One Thousand Dollars or
17 more, punishment of value of One Thousand Dollars or
18 more, administration and enforcement, sale, exchange
19 or delivery of notes, checks or drafts, possession of
20 forged evidences of debt, possession of other forged
21 instruments and forgery; modifying violations and
22 penalties; directing certain restitution; providing
23 for offense of petit larceny; providing for certain
24 punishment; providing for codification; providing an
effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, State Question No. 780,
Initiative Petition No. 404, adopted November 8, 2016 is amended to
read as follows:

Section 3. A. 1. It shall be unlawful for any person
knowingly or intentionally to possess a controlled dangerous

1 substance unless such substance was obtained directly, or pursuant
2 to a valid prescription or order from a practitioner, while acting
3 in the course of his or her professional practice, or except as
4 otherwise authorized by this act.

5 2. It shall be unlawful for any person to purchase any
6 preparation excepted from the provisions of the Uniform Controlled
7 Dangerous Substances Act pursuant to Section 2-313 of this title in
8 an amount or within a time interval other than that permitted by
9 Section 2-313 of this title.

10 3. It shall be unlawful for any person or business to sell,
11 market, advertise or label any product containing ephedrine, its
12 salts, optical isomers, or salts of optical isomers, for the
13 indication of stimulation, mental alertness, weight loss, appetite
14 control, muscle development, energy or other indication which is not
15 approved by the pertinent federal OTC Final Monograph, Tentative
16 Final Monograph, or FDA-approved new drug application or its legal
17 equivalent. In determining compliance with this requirement, the
18 following factors shall be considered:

- 19 a. the packaging of the product,
- 20 b. the name of the product, and
- 21 c. the distribution and promotion of the product,
22 including verbal representations made at the point of
23 sale.

24

1 B. Any person who violates this section ~~is guilty of a~~
2 ~~misdemeanor punishable by confinement for not more than one (1) year~~
3 ~~and by a fine not exceeding One Thousand Dollars (\$1,000.00) with~~
4 respect to:

5 1. Any Schedule I or II substance, except marijuana or a
6 substance included in subsection D of Section 2-206 of this title,
7 is guilty of a felony punishable by imprisonment for not more than
8 five (5) years and by a fine not exceeding Five Thousand Dollars
9 (\$5,000.00). A second violation of this section with respect to a
10 Schedule I or II substance, except marijuana or a substance included
11 in subsection D of Section 2-206 of this title, is a felony
12 punishable by imprisonment for not more than ten (10) years and by a
13 fine not exceeding Ten Thousand Dollars (\$10,000.00). A third or
14 subsequent violation of this section with respect to a Schedule I or
15 II substance, except marijuana or a substance included in subsection
16 D of Section 2-206 of this title, is a felony punishable by
17 imprisonment for not less than four (4) years nor more than fifteen
18 (15) years and by a fine not exceeding Ten Thousand Dollars
19 (\$10,000.00);

20 2. Any Schedule III, IV or V substance, marijuana, a substance
21 included in subsection D of Section 2-206 of this title, or any
22 preparation excepted from the provisions of the Uniform Controlled
23 Dangerous Substances Act is guilty of a misdemeanor punishable by
24

1 confinement for not more than one (1) year and by a fine not
2 exceeding One Thousand Dollars (\$1,000.00);

3 3. Any Schedule III, IV or V substance, marijuana, a substance
4 included in subsection D of Section 2-206 of this title, or any
5 preparation excepted from the provisions of the Uniform Controlled
6 Dangerous Substances Act and who, during the period of any court-
7 imposed probationary term or within ten (10) years of the date
8 following the completion of the execution of any sentence or
9 deferred judgment for a violation of this section, commits a second
10 or subsequent violation of this section shall, upon conviction, be
11 guilty of a felony punishable by imprisonment in the custody of the
12 Department of Corrections for not less than one (1) year nor more
13 than five (5) years and by a fine not exceeding Five Thousand
14 Dollars (\$5,000.00); or

15 4. Any Schedule III, IV or V substance, marijuana, a substance
16 included in subsection D of Section 2-206 of this title, or any
17 preparation excepted from the provisions of the Uniform Controlled
18 Dangerous Substances Act and who, ten (10) or more years following
19 the date of completion of the execution of any sentence or deferred
20 judgment for a violation of this section, commits a second or
21 subsequent violation of this section shall, upon conviction, be
22 guilty of a felony punishable by imprisonment in the custody of the
23 Department of Corrections for not less than one (1) year nor more
24

1 than five (5) years and by a fine not exceeding Five Thousand
2 Dollars (\$5,000.00).

3 C. Any person who violates any provision of this section by
4 possessing or purchasing a controlled dangerous substance from any
5 person, in or on, or within one thousand (1,000) feet of the real
6 property comprising a public or private elementary or secondary
7 school, public vocational school, public or private college or
8 university, or other institution of higher education, recreation
9 center or public park, including state parks and recreation areas,
10 or in the presence of any child under twelve (12) years of age,
11 shall be guilty of a felony and punished by:

12 1. For a first offense, a term of imprisonment, or by the
13 imposition of a fine, or by both, not exceeding twice that
14 authorized by the appropriate provision of this section. In
15 addition, the person shall serve a minimum of fifty percent (50%) of
16 the sentence received prior to becoming eligible for state
17 correctional institution earned credits toward the completion of the
18 sentence; or

19 2. For a second or subsequent offense, a term of imprisonment
20 not exceeding three times that authorized by the appropriate
21 provision of this section and the person shall serve a minimum of
22 ninety percent (90%) of the sentence received prior to becoming
23 eligible for state correctional institution earned credits toward
24

1 the completion of the sentence, and imposition of a fine not
2 exceeding Ten Thousand Dollars (\$10,000.00).

3 C. Any person convicted of any offense described in this
4 section shall, in addition to any fine imposed, pay a special
5 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
6 deposited into the Trauma Care Assistance Revolving Fund created in
7 Section 1-2530.9 of this title.

8 SECTION 2. AMENDATORY Section 5, State Question No. 780,
9 Initiative Petition No. 404, adopted November 8, 2016, is amended to
10 read as follows:

11 Section 5. Grand larceny is a felony punishable by imprisonment
12 in the State Penitentiary not exceeding five (5) years, a fine not
13 exceeding Five Thousand Dollars (\$5,000.00), or by both such fine
14 and imprisonment if the value of the property is One Thousand
15 Dollars (\$1,000.00) or more and if the value of the property is less
16 than One Thousand Dollars (\$1,000.00) punishable by incarceration in
17 the county jail for not more than one (1) year or by incarceration
18 in the county jail one or more nights or weekends pursuant to
19 Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option
20 of the court, ~~and shall be subject to a fine of not more than Five~~
21 ~~Thousand Dollars (\$5,000.00) and~~ a fine not exceeding One Thousand
22 Dollars (\$1,000.00), or by both such fine and imprisonment. The
23 defendant shall also be ordered to provide restitution to the victim
24 as provided in Section 991a of Title 22 of the Oklahoma Statutes.

1 SECTION 3. AMENDATORY Section 6, State Question No. 780,
2 Initiative Petition No. 404, adopted November 8, 2016, is amended to
3 read as follows:

4 Section 6. A. Every person who buys or receives, in any
5 manner, upon any consideration, any personal property of ~~any value~~
6 ~~whatsoever~~ a value of One Thousand Dollars (\$1,000.00) or more that
7 has been stolen, embezzled, obtained by false pretense or robbery,
8 knowing or having reasonable cause to believe the same to have been
9 stolen, embezzled, obtained by false pretense, or robbery, or who
10 conceals, withholds, or aids in concealing or withholding such
11 property from the owner, shall, ~~if the value of the property is One~~
12 ~~Thousand Dollars (\$1,000.00) or more be guilty of a felony~~
13 ~~punishable by imprisonment in the State Penitentiary~~ upon
14 conviction, be guilty of a felony punishable by imprisonment in the
15 custody of the Department of Corrections not to exceed five (5)
16 years, or in the county jail not to exceed one (1) year, or by a
17 fine not to exceed Five Hundred Dollars (\$500.00) or by both such
18 fine and imprisonment. If the value of the property received is
19 less than One Thousand Dollars (\$1,000.00), the person shall be
20 guilty of a misdemeanor ~~and shall be punished by a fine of not more~~
21 ~~than Five Hundred Dollars (\$500.00) or~~ punishable by imprisonment in
22 the county jail ~~for a term not to exceed six (6) months, or by both~~
23 ~~such fine and imprisonment~~ not to exceed one (1) year.

24

1 B. Every person who, without making reasonable inquiry, buys,
2 receives, conceals, withholds, or aids in concealing or withholding
3 any property which has been stolen, embezzled, obtained by false
4 pretense or robbery, or otherwise feloniously obtained, under such
5 circumstances as should cause such person to make reasonable inquiry
6 to ascertain that the person from whom such property was bought or
7 received had the legal right to sell or deliver it shall be presumed
8 to have bought or received such property knowing it to have been so
9 stolen or wrongfully obtained. This presumption may, however, be
10 rebutted by proof.

11 SECTION 4. AMENDATORY Section 7, State Question No. 780,
12 Initiative Petition No. 404, adopted November 8, 2016, is amended to
13 read as follows:

14 Section 7. A. For the purpose of this section:

15 1. "Domesticated fish or game" means all birds, mammals, fish
16 and other aquatic forms and all other animals, regardless of
17 classifications, whether resident, migratory or imported, protected
18 or unprotected, dead or alive, and shall extend to and include every
19 part of any individual species when such domesticated fish or game
20 are not in the wild and are in the possession of a person currently
21 licensed to possess such fish or game; and

22 2. "Taking" means the pursuing, killing, capturing, trapping,
23 snaring and netting of domesticated fish or game or placing,
24 setting, drawing or using any net, trap or other device for taking

1 domesticated fish or game and includes specifically every attempt to
2 take such domesticated fish or game.

3 B. Any domesticated fish or game shall be considered the
4 personal property of the owner.

5 C. Any person who shall take any domesticated fish or game,
6 with the intent to deprive the owner of said fish or game, and any
7 person purchasing or receiving such domesticated fish or game
8 knowing them to have been stolen, shall:

9 1. Upon conviction, if the current market value of said
10 domesticated fish or game is less than ~~One Thousand Dollars~~
11 ~~(\$1,000.00)~~ Five Hundred Dollars (\$500.00), be guilty of a
12 misdemeanor and shall be punished by a fine of not more than Five
13 Hundred Dollars (\$500.00) or by imprisonment in the county jail for
14 a term not to exceed sixty (60) days, or by both such fine and
15 imprisonment; or

16 2. Upon conviction, if the current market value of said
17 domesticated fish or game is One Thousand Dollars (\$1,000.00) or
18 more, be guilty of a felony and shall be punished by a fine of not
19 less than One Thousand Dollars (\$1,000.00) nor more than Five
20 Thousand Dollars (\$5,000.00), or by imprisonment in the ~~State~~
21 Penitentiary custody of the Department of Corrections for a term of
22 not more than five (5) years, or by both such fine and imprisonment.
23 If the current market value is Five Hundred Dollars (\$500.00) or
24 more but less than One Thousand Dollars (\$1,000.00), the person

1 shall be guilty of a felony and shall be punished by incarceration
2 in the county jail for not more than one (1) year or by
3 incarceration in the county jail one or more nights or weekends
4 pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at
5 the option of the court, and shall be subject to a fine of not more
6 than Five Thousand Dollars (\$5,000.00) and ordered to provide
7 restitution to the victim as provided in Section 991a of Title 22 of
8 the Oklahoma Statutes.

9 SECTION 5. AMENDATORY Section 8, State Question No. 780,
10 Initiative Petition No. 404, adopted November 8, 2016, is amended to
11 read as follows:

12 Section 8. Any person who shall unlawfully take any crude oil
13 or gasoline, or any product thereof, from any pipe, pipeline, tank,
14 tank car, or other receptacle or container and any person who shall
15 unlawfully take or cause to be taken any machinery, drilling mud,
16 equipment or other materials necessary for the drilling or
17 production of oil or gas wells, with intent to deprive the owner or
18 lessee thereof of said crude oil, gas, gasoline, or any product
19 thereof, machinery, drilling mud, equipment or other materials
20 necessary for the drilling or production of oil or gas wells shall:

21 1. Be guilty of a misdemeanor if the value of said product so
22 taken is less than ~~One Thousand Dollars (\$1,000.00)~~ Five Hundred
23 Dollars (\$500.00), and upon conviction thereof, shall be punished by
24 a fine of not more than Five Hundred Dollars (\$500.00), or by

1 imprisonment in the county jail for a term not to exceed sixty (60)
2 days, or by both such fine and imprisonment;

3 2. Be guilty of a felony if the value of such product so taken
4 is One Thousand Dollars (\$1,000.00) or more and upon conviction
5 thereof, shall be punished by forfeiture of the instrumentality of
6 the crime and by a fine of not less than One Hundred Dollars
7 (\$100.00), and not more than Fifty Thousand Dollars (\$50,000.00), or
8 by imprisonment in the ~~State Penitentiary~~ custody of the Department
9 of Corrections for a term in the range of one (1) year to ten (10)
10 years, or by both such fine and imprisonment. If the value exceeds
11 Five Hundred Dollars (\$500.00) but is less than One Thousand Dollars
12 (\$1,000.00), the person shall be guilty of a felony and shall be
13 punished by incarceration in the county jail for a term of not more
14 than one (1) year or by incarceration in the county jail one or more
15 nights or weekends pursuant to Section 991a-2 of Title 22 of the
16 Oklahoma Statutes, at the option of the court, and shall be subject
17 to a fine of not more than Five Thousand Dollars (\$5,000.00) and
18 ordered to provide restitution to the victim as provided in Section
19 991a of Title 22 of the Oklahoma Statutes.

20 SECTION 6. AMENDATORY Section 9, State Question No. 780,
21 Initiative Petition No. 404, adopted November 8, 2016, is amended to
22 read as follows:

23 Section 9. Larceny of merchandise held for sale in retail or
24 wholesale establishments shall be punishable as follows:

1 1. For the first ~~or second~~ conviction, in the event the value
2 of the goods, edible meat or other corporeal property which has been
3 taken is less than One Thousand Dollars (\$1,000.00), the ~~violate~~
4 defendant shall be guilty of a misdemeanor punishable by
5 imprisonment in the county jail for a term not exceeding thirty (30)
6 days, and by a fine not less than Ten Dollars (\$10.00) nor more than
7 Five Hundred Dollars (\$500.00); provided for the first ~~or second~~
8 conviction, in the event more than one item of goods, edible meat or
9 other corporeal property has been taken, punishment shall be by
10 imprisonment in the county jail for a term not to exceed thirty (30)
11 days, and by a fine not less than Fifty Dollars (\$50.00) nor more
12 than Five Hundred Dollars (\$500.00).

13 2. If it be shown, in the trial of a case in which the value of
14 the goods, edible meat or other corporeal property is less than One
15 Thousand Dollars (\$1,000.00), that the defendant has been ~~two or~~
16 ~~more times~~ once before convicted of the same offense, the defendant
17 shall, on a ~~third or subsequent~~ second conviction, be guilty of a
18 misdemeanor and shall be punished by confinement in the county jail
19 for a term of not less than thirty (30) days nor more than one (1)
20 year, and by a fine not exceeding One Thousand Dollars (\$1,000.00).

21 3. If it be shown, upon the trial of a case where the value of
22 the goods, edible meat or other corporeal personal property is less
23 than One Thousand Dollars (\$1,000.00), that the defendant has two or
24 more times before been convicted of the same offense, regardless of

1 the value of the goods, edible meat or other corporeal personal
2 property involved in the first two convictions, upon the third or
3 any subsequent conviction, the defendant shall be guilty of a felony
4 and shall be punished by imprisonment in the custody of the
5 Department of Corrections for a term of not less than two (2) nor
6 more than five (5) years.

7 4. In the event the value of the goods, edible meat or other
8 corporeal property is One Thousand Dollars (\$1,000.00) or more, the
9 defendant shall be guilty of a felony and punishment shall be
10 imprisonment in the ~~State Penitentiary~~ custody of the Department of
11 Corrections for a term of not less than two (2) years nor more than
12 five (5) years. The defendant shall also be subject to a fine of
13 not more than Five Thousand Dollars (\$5,000.00) and ordered to
14 provide restitution to the victim as provided in Section 991a of
15 Title 22 of the Oklahoma Statutes.

16 SECTION 7. AMENDATORY Section 10, State Question No.
17 780, Initiative Petition No. 404, adopted November 8, 2016, is
18 amended to read as follows:

19 Section 10. A. Embezzlement is the fraudulent appropriation of
20 property of any person or legal entity, legally obtained, to any use
21 or purpose not intended or authorized by its owner, or the secretion
22 of the property with the fraudulent intent to appropriate it to such
23 use or purpose, under any of the following circumstances:

24

1 1. Where the property was obtained by being entrusted to that
2 person for a specific purpose, use, or disposition and shall
3 include, but not be limited to, any funds "held in trust" for any
4 purpose;

5 2. Where the property was obtained by virtue of a power of
6 attorney being granted for the sale or transfer of the property;

7 3. Where the property is possessed or controlled for the use of
8 another person;

9 4. Where the property is to be used for a public or benevolent
10 purpose;

11 5. Where any person diverts any money appropriated by law from
12 the purpose and object of the appropriation;

13 6. Where any person fails or refuses to pay over to the state,
14 or appropriate authority, any tax or other monies collected in
15 accordance with state law, and who appropriates the tax or monies to
16 the use of that person, or to the use of any other person not
17 entitled to the tax or ~~monies~~ monies;

18 7. Where the property is possessed for the purpose of
19 transportation, without regard to whether packages containing the
20 property have been broken;

21 8. Where any person removes crops from any leased or rented
22 premises with the intent to deprive the owner or landlord interested
23 in the land of any of the rent due from that land, or who
24

1 fraudulently appropriates the rent to that person or any other
2 person; or

3 9. Where the property is possessed or controlled by virtue of a
4 lease or rental agreement, and the property is willfully or
5 intentionally not returned within ten (10) days after the expiration
6 of the agreement.

7 Embezzlement does not require a distinct act of taking, but only
8 a fraudulent appropriation, conversion or use of property.

9 B. Except as provided in subsection C of this section,
10 embezzlement shall be punished as follows:

11 1. If the value of the property embezzled is less than ~~One~~
12 ~~Thousand Dollars (\$1,000.00)~~ Five Hundred Dollars (\$500.00), any
13 person convicted shall be punished by a fine not exceeding One
14 Thousand Dollars (\$1,000.00), or by imprisonment in the county jail
15 for a term not more than one (1) year, or by both such fine and
16 imprisonment;

17 2. If the value of the property embezzled is Five Hundred
18 Dollars (\$500.00), or more but less than One Thousand Dollars
19 (\$1,000.00), any person convicted shall be guilty of a misdemeanor
20 and shall be punished by imprisonment in the county jail for not
21 more than one (1) year or by imprisonment in the county jail for one
22 or more nights or weekends pursuant to Section 991a-2 of Title 22 of
23 the Oklahoma Statutes, at the discretion of the court, and shall be
24 subject to a fine not exceeding Five Thousand Dollars (\$5,000.00),

1 and ordered to pay restitution to the victim as provided in Section
2 991f of Title 22 of the Oklahoma Statutes;

3 If the value of the property embezzled is One Thousand Dollars
4 (\$1,000.00) or more but less than Twenty-five Thousand Dollars
5 (\$25,000.00), any person convicted shall be guilty of a felony and
6 shall be punished by imprisonment in the custody of the Department
7 of Corrections for a term of not more than five (5) years, and a
8 fine of not exceeding Five Thousand Dollars (\$5,000.00), and ordered
9 to pay restitution to the victim as provided in Section 991f of
10 Title 22 of the Oklahoma Statutes; or

11 3. If the value of the property embezzled is Twenty-five
12 Thousand Dollars (\$25,000.00) or more, any person convicted shall be
13 guilty of a felony and shall be punished by imprisonment in the
14 custody of the Department of Corrections for a term of not more than
15 ten (10) years, and a fine not exceeding Ten Thousand Dollars
16 (\$10,000.00), and ordered to pay restitution to the victim as
17 provided in Section 991f of Title 22 of the Oklahoma Statutes.

18 For purposes of this subsection, a series of offenses may be
19 aggregated into one offense when they are the result of the
20 formulation of a plan or scheme or the setting up of a mechanism
21 which, when put into operation, results in the taking or diversion
22 of money or property on a recurring basis. When all acts result
23 from a continuing course of conduct, they may be aggregated into one
24 crime. Acts forming an integral part of the first taking which

1 facilitate subsequent takings, or acts taken in preparation of
2 several takings which facilitate subsequent takings, are relevant to
3 determine the party's intent to commit a continuing crime.

4 C. Any county or state officer, deputy or employee of such
5 officer, who shall divert any money appropriated by law from the
6 purpose and object of the appropriation, shall, upon conviction, be
7 guilty of a felony punishable by imprisonment in the custody of the
8 Department of Corrections for a term not less than one (1) year nor
9 more than ten (10) years, and a fine equal to triple the amount of
10 money so embezzled and ordered to pay restitution to the victim as
11 provided in Section 991f of Title 22 of the Oklahoma Statutes. The
12 fine shall operate as a judgment lien at law on all estate of the
13 party so convicted and sentenced, and shall be enforced by execution
14 or other process for the use of the person whose money or other
15 funds or property were embezzled. In all cases the fine, so
16 operating as a judgment lien, shall be released or entered as
17 satisfied only by the person in interest.

18 D. Any executor, administrator, trustee, beneficiary or other
19 person benefiting from, acting in a fiduciary capacity for, or
20 otherwise administering a probate, intestate, or trust estate,
21 whether the trust is inter vivos or testamentary, upon conviction of
22 embezzlement from the estate shall not receive any portion, share,
23 gift or otherwise benefit from the estate.

24

1 SECTION 8. AMENDATORY Section 11, State Question No.
2 780, Initiative Petition No. 404, adopted November 8, 2016, is
3 amended to read as follows:
4 Section 11. Any person who shall obtain food, lodging, services
5 or other accommodations at any hotel, inn, restaurant, boarding
6 house, rooming house, motel or auto camp, with intent to defraud the
7 owner or keeper thereof, if the value of such food, lodging,
8 services or other accommodations is less than ~~One Thousand Dollars~~
9 ~~(\$1,000.00)~~ Five Hundred Dollars (\$500.00), shall be guilty of a
10 misdemeanor and upon conviction thereof shall be fined not exceeding
11 Five Hundred Dollars (\$500.00), or be imprisoned in the county jail
12 not exceeding three (3) months, or punished by both such fine and
13 imprisonment, and if the value of such food, lodging, services or
14 accommodations is valued at more than Five Hundred Dollars (\$500.00)
15 but less than One Thousand Dollars (\$1,000.00) ~~or more~~, any person
16 convicted hereunder shall be deemed guilty of a felony and shall be
17 punished by incarceration in the county jail for not a term to
18 exceed one (1) year or nights or weekends pursuant to Section 991a-2
19 of Title 22 of the Oklahoma Statutes, at the option of the court,
20 and shall be subject to a fine of not more than Five Thousand
21 Dollars (\$5,000.00) and ordered to provide restitution to the victim
22 as provided in Section 991a of Title 22 of the Oklahoma Statutes,
23 and if the value of such food, lodging, services or accommodations
24 is valued at One Thousand Dollars (\$1,000.00) or more, any person

1 convicted hereunder shall be guilty of a felony and shall be
2 punished by imprisonment in the State Penitentiary custody of the
3 Department of Corrections for a term not exceeding five (5) years.
4 Any person who shall obtain shelter, lodging, or any other services
5 at any apartment house, apartment, rental unit, rental house, or
6 trailer camp, with intent to defraud the owner or keeper thereof,
7 shall be guilty of a misdemeanor and upon conviction thereof shall
8 be fined not exceeding One Hundred Dollars (\$100.00), or be
9 imprisoned in the county jail not exceeding three (3) months, or be
10 punished by both fine and imprisonment. Proof that such lodging,
11 food, services or other accommodations were obtained by false
12 pretense or by false or fictitious show or pretense of any baggage
13 or other property, or that he gave a check on which payment was
14 refused, or that he left the hotel, inn, restaurant, boarding house,
15 rooming house, motel, apartment house, apartment, rental unit or
16 rental house, trailer camp or auto camp, without payment or offering
17 to pay for such food, lodging, services or other accommodation, or
18 that he surreptitiously removed or attempted to remove his baggage,
19 or that he registered under a fictitious name, shall be prima facie
20 proof of the intent to defraud mentioned in this section; but this
21 section shall not apply where there has been an agreement in writing
22 for delay in payment.

23

24

1 SECTION 9. AMENDATORY Section 12, State Question No.
2 780, Initiative Petition No. 404, adopted November 8, 2016, is
3 amended to read as follows:

4 Section 12. Every person who shall lease or rent, for any
5 period of time whatsoever, any motor vehicle and, with intent to
6 cheat and defraud, who pays the fees for such lease or rental by
7 means of a false, bogus or worthless check written for the sum of
8 ~~less than One Thousand Dollars (\$1,000.00)~~ Twenty Dollars (\$20.00)
9 or less shall be guilty of a misdemeanor and upon conviction thereof
10 shall be punished by a fine not to exceed Five Hundred Dollars
11 (\$500.00) or by imprisonment in the county jail for not more than
12 six (6) months, or both such fine and imprisonment. If the value of
13 the false, bogus or worthless check shall exceed the sum of Twenty
14 Dollars (\$20.00) but is less than One Thousand Dollars (\$1,000.00),
15 any person convicted pursuant to this section shall be guilty of a
16 misdemeanor and shall be punished by incarceration in the county
17 jail for not to exceed one (1) year or incarceration in the county
18 jail one or more nights or weekends pursuant to Section 991a-2 of
19 Title 22 of the Oklahoma Statutes, at the option of the court, and
20 shall be subject to a fine of not more than Five Thousand Dollars
21 (\$5,000.00) and ordered to provide restitution to the victim as
22 provided in Section 991a of Title 22 of the Oklahoma Statutes. If
23 the value of the worthless check is One Thousand Dollars (\$1,000.00)
24 or more, any person convicted hereunder shall be deemed guilty of a

1 felony and shall be punished by imprisonment in the State
2 ~~Penitentiary~~ custody or the Department of Corrections for a term not
3 exceeding seven (7) years or by a fine not to exceed Five Hundred
4 Dollars (\$500.00), or both such fine and imprisonment.

5 SECTION 10. AMENDATORY Section 14, State Question No.
6 780, Initiative Petition No. 404, adopted November 8, 2016, is
7 amended to read as follows:

8 Section 14. If the value of the money, property or valuable
9 thing referred to in Section 1541.1 of this title is One Thousand
10 Dollars (\$1,000.00) or more, any person convicted hereunder shall be
11 deemed guilty of a felony and shall be punished by imprisonment in
12 the ~~State Penitentiary~~ custody of the Department of Corrections for
13 a term not more than ten (10) years, or by a fine not to exceed Five
14 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment,
15 and ordered to provide restitution to the victim as provided in
16 Section 991a of Title 22 of the Oklahoma Statutes.

17 SECTION 11. AMENDATORY Section 15, State Question No.
18 780, Initiative Petition No. 404, adopted November 8, 2016, is
19 amended to read as follows:

20 Section 15. Any person making, drawing, uttering or delivering
21 two or more false or bogus checks, drafts or orders, as defined by
22 Section 1541.4 of this title, the total sum of which is ~~One Thousand~~
23 ~~Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00) or more, even
24 though each separate instrument is written for less than One

1 Thousand Dollars (\$1,000.00), all in pursuance of a common scheme or
2 plan to cheat and defraud, shall be deemed guilty of a felony and
3 shall be punished by imprisonment in the ~~State Penitentiary~~ custody
4 of the Department of Corrections for a term not more than ten (10)
5 years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00),
6 or by both such fine and imprisonment. If the total sum of two or
7 more false or bogus checks, drafts or orders is Five Hundred Dollars
8 (\$500.00) or more, but less than Two Thousand Dollars (\$2,000.00),
9 the person shall, upon conviction, be guilty of a misdemeanor and
10 shall be punished by incarceration in the county jail for not more
11 than one (1) year or by incarceration in the county jail one or more
12 nights or weekends pursuant to Section 991a-2 of Title 22 of the
13 Oklahoma Statutes, at the option of the court, and shall be subject
14 to a fine of not more than Five Thousand Dollars (\$5,000.00) and
15 ordered to provide restitution to the victim as provided in Section
16 991a of Title 22 of the Oklahoma Statutes.

17 SECTION 12. AMENDATORY Section 16, State Question No.
18 780, Initiative Petition No. 404, adopted November 8, 2016, is
19 amended to read as follows:

20 Section 16. A. Rule Making Power. The Administrator shall
21 have the same authority to adopt, amend and repeal rules as is
22 conferred upon him by paragraph (e) of subsection (1), and
23 subsections (2) and (3) of Section 6-104 of Title 14A of the
24 Oklahoma Statutes, as applicable, and such rules shall have the same

1 effect as provided in subsection (4) of Section 6-104 thereunder.
2 In addition, the Administrator may adopt, amend and repeal such
3 other rules as are necessary for the enforcement of the provisions
4 of Section 1501 et seq. of this title and consistent with all its
5 provisions.

6 B. Administrative Enforcement. Compliance with the provisions
7 of this act may be enforced by the Administrator who may exercise,
8 for such purpose, all the powers enumerated in Part 1 of Article 6,
9 Title 14A of the Oklahoma Statutes, in the same manner as in
10 relation to consumer credit transactions under that act, as well as
11 those powers conferred in this act.

12 C. Criminal Penalties. 1. Any person who engages in the
13 business of operating a pawn shop without first securing the license
14 prescribed by this act shall be guilty of a misdemeanor and upon
15 conviction thereof shall be punished by a fine not in excess of One
16 Thousand Dollars (\$1,000.00), by confinement in the county jail for
17 not more than six (6) months or by both.

18 2. Any person selling or pledging property to a pawnbroker who
19 uses false or altered identification or a false declaration of
20 ownership as related to the provisions of Section 1515 of this title
21 shall, ~~if the value of the property is One Thousand Dollars~~
22 ~~(\$1,000.00) or more,~~ be guilty of a felony, and upon conviction
23 shall be punished by imprisonment in the State Penitentiary not to
24 exceed five (5) years or in the county jail not to exceed one (1)

1 year, or by a fine not to exceed Five Hundred Dollars (\$500.00), or
2 by both such imprisonment and fine. ~~However, if the property was~~
3 ~~acquired by means of robbery or burglary, the person shall be~~
4 ~~punished by imprisonment in the State Penitentiary not to exceed~~
5 ~~five (5) years or in the county jail not to exceed one (1) year, or~~
6 ~~by a fine not to exceed Five Hundred Dollars (\$500.00), or by both~~
7 ~~such imprisonment and fine, without regard to the value of the~~
8 ~~property.~~

9 3. Any person who fails to repay a pawnbroker the full amount
10 received from a pawn or buy transaction after being officially
11 notified by a peace officer that the goods he pledged or sold in
12 that transaction were stolen or embezzled shall be guilty of a
13 misdemeanor and upon conviction shall be punished by imprisonment in
14 the county jail for a term not to exceed six (6) months, or a fine
15 not to exceed Five Hundred Dollars (\$500.00), or by both such fine
16 and imprisonment.

17 D. Private Enforcement. 1. If any person engages in the
18 business of operating a pawnshop without first securing the license
19 prescribed by this act, or if any pawnbroker contracts for, charges
20 or receives a pawn finance charge in excess of that authorized by
21 this act, the pawn transaction shall be void and the customer is not
22 obligated to pay either the amount financed or the pawn finance
23 charge in connection with the transaction, and upon the customer's
24 demand, the pawnbroker shall be obligated to return to the customer,

1 as a refund, all amounts paid in connection with the transaction by
2 the customer and the pledged goods delivered to the pawnbroker in
3 connection with the pawn transaction or their value if the goods
4 cannot be returned. If a customer is entitled to a refund under
5 this section and a pawnbroker liable to the customer refuses to make
6 the refund within a reasonable time after demand, the customer shall
7 have an action against the pawnbroker and in the case of a
8 successful action to enforce such liability, the costs of the action
9 together with attorney's fees as determined by the court shall be
10 awarded to the customer.

11 2. A pawnbroker who fails to disclose information to a customer
12 entitled to the information under this act is liable to that person
13 in an amount equal to the sum of:

- 14 a. twice the amount of the pawn finance charge in
15 connection with the transaction, or One Hundred
16 Dollars (\$100.00), whichever is greater; and
- 17 b. in the case of a successful action to enforce the
18 liability under paragraph 1 of this subsection, the
19 costs of the action together with reasonable
20 attorneys' fees as determined by the court.

21 SECTION 13. AMENDATORY Section 17, State Question No.
22 780, Initiative Petition No. 404, adopted November 8, 2016, is
23 amended to read as follows:

24

1 Section 17. Every person who sells, exchanges or delivers for
2 any consideration any forged or counterfeited promissory note,
3 check, bill, draft, or other evidence of debt, or engagement for the
4 payment of money absolutely, or upon any contingency, knowing the
5 same to be forged or counterfeited, with intent to have the same
6 uttered or passed, or who offers any such note or other instrument
7 for sale, exchange or delivery for any consideration, with the like
8 knowledge and intent, or who receives any such note or other
9 instrument upon a sale, exchange or delivery for any consideration
10 with the like knowledge and intent, is guilty of forgery in the
11 ~~third degree~~ second degree if the value of the instrument is One
12 Thousand Dollars (\$1,000.00) or more and forgery in the third degree
13 if the value of the instrument is less than One Thousand Dollars
14 (\$1,000.00).

15 For purposes of this section, a series of offenses may be
16 aggregated into one offense when they are the result of the
17 formulation of a plan or scheme or the setting up of a mechanism
18 which, when put into operation, results in the taking or diversion
19 of money or property on a recurring basis. When all acts result
20 from a continuing course of conduct, they may be aggregated into one
21 crime. Acts forming an integral part of the first taking which
22 facilitate subsequent takings, or acts taken in preparation of
23 several takings which facilitate subsequent takings, are relevant to
24 determine the intent of the party to commit a continuing crime.

1 SECTION 14. AMENDATORY Section 18, State Question No.
2 780, Initiative Petition No. 404, adopted November 8, 2016, is
3 amended to read as follows:

4 Section 18. Every person who, with intent to defraud, has in
5 his or her possession any forged, altered or counterfeit negotiable
6 note, bill, draft or other evidence of debt issued or purporting to
7 have been issued by any corporation or company duly authorized for
8 that purpose by the laws of this state or of any other state,
9 government or country, the forgery of which is hereinbefore declared
10 to be punishable, knowing the same to be forged, altered or
11 counterfeited, with intent to utter the same as true or as false, or
12 to cause the same to be so uttered, is guilty of forgery in the
13 ~~third degree~~ second degree if the value of the instrument is One
14 Thousand Dollars (\$1,000.00) or more and forgery in the third degree
15 if the value of the instrument is less than One Thousand Dollars
16 (\$1,000.00).

17 For purposes of this section, a series of offenses may be
18 aggregated into one offense when they are the result of the
19 formulation of a plan or scheme or the setting up of a mechanism
20 which, when put into operation, results in the taking or diversion
21 of money or property on a recurring basis. When all acts result
22 from a continuing course of conduct, they may be aggregated into one
23 crime. Acts forming an integral part of the first taking which
24 facilitate subsequent takings, or acts taken in preparation of

1 several takings which facilitate subsequent takings, are relevant to
2 determine the intent of the party to commit a continuing crime.

3 SECTION 15. AMENDATORY Section 19, State Question No.
4 780, Initiative Petition No. 404, adopted November 8, 2016, is
5 amended to read as follows:

6 Section 19. Every person who has in his possession any forged
7 or counterfeited instrument, the forgery of which is hereinbefore
8 declared to be punishable, other than such as are enumerated in the
9 last section, knowing the same to be forged, counterfeited or
10 falsely altered with intent to injure or defraud by uttering the
11 same to be true, or as false, or by causing the same to be uttered,
12 is guilty of forgery in the ~~third degree~~ second degree if the value
13 of the instrument is One Thousand Dollars (\$1,000.00) or more and
14 forgery in the third degree if the value of the instrument is less
15 than One Thousand Dollars (\$1,000.00).

16 For purposes of this section, a series of offenses may be
17 aggregated into one offense when they are the result of the
18 formulation of a plan or scheme or the setting up of a mechanism
19 which, when put into operation, results in the taking or diversion
20 of money or property on a recurring basis. When all acts result
21 from a continuing course of conduct, they may be aggregated into one
22 crime. Acts forming an integral part of the first taking which
23 facilitate subsequent takings, or acts taken in preparation of
24

1 several takings which facilitate subsequent takings, are relevant to
2 determine the intent of the party to commit a continuing crime.

3 SECTION 16. AMENDATORY Section 20, State Question No.
4 780, Initiative Petition No. 404, adopted November 8, 2016, is
5 amended to read as follows:

6 Section 20. Forgery is punishable as follows:

7 1. Forgery in the first degree is a felony punishable by
8 imprisonment not less than seven (7) years nor more than twenty (20)
9 years; ~~and~~

10 2. Forgery in the second degree is a felony punishable by
11 imprisonment not exceeding seven (7) years; ~~and~~

12 3. Forgery in the third degree is ~~is~~

13 a. ~~If the value of the forgery is less than One Thousand~~
14 ~~Dollars (\$1,000.00), a misdemeanor punishable by~~
15 ~~confinement for not more than one (1) year and by a~~
16 ~~fine not exceeding One Thousand Dollars (\$1,000.00).~~

17 b. ~~If the value of the forgery is One Thousand Dollars~~
18 ~~(\$1,000.00) or more, a felony punishable by~~
19 ~~imprisonment not exceeding seven (7) years.~~

20 c. ~~If the total or aggregate value of the forgery is Two~~
21 ~~Thousand Dollars (\$2,000.00) or more, a felony~~
22 ~~punishable by imprisonment not exceeding seven (7)~~
23 ~~years~~ a misdemeanor punishable by imprisonment in the
24

1 county jail for not more than one (1) year and a fine
2 of One Thousand Dollars (\$1,000.00).

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 51.3a of Title 21, unless there
5 is created a duplication in numbering, reads as follows:

6 Every person who, having been convicted of petit larceny, or of
7 an attempt to commit an offense which if perpetrated, would be
8 punishable by imprisonment in the custody of the Department of
9 Corrections commits any crime after such conviction is punishable as
10 follows:

11 1. If such subsequent offense is such that upon a first
12 conviction the offender would be punishable by imprisonment in the
13 custody of the Department of Corrections for life, such person is
14 punishable by imprisonment in such prison for life;

15 2. If such subsequent offense is such that upon first
16 conviction the offender would be punishable by imprisonment in the
17 custody of the Department of Corrections for any term less than for
18 life, such person is punishable by imprisonment in such prison for
19 the longest term prescribed upon a conviction for such first
20 offense; and

21 3. If such subsequent conviction is for petit larceny, or for
22 any attempt to commit an offense, which, if perpetrated, would be
23 punishable by imprisonment in the custody of the Department of
24

1 Corrections, then such person is punishable by imprisonment in such
2 prison for a term not exceeding five (5) years.

3 SECTION 18. This act shall become effective July 1, 2017.

4 SECTION 19. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8

9 56-1-1177 BH 1/19/2017 6:27:20 PM

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24